REMARKS

Claim 1 has been amended to incorporate the requirements of claims 2, 6, and 9. (Claims 2, 6, and 9 are cancelled without prejudice). Additionally, claim 1 has been amended to further describe the disperse organic solvent phase as comprising an organic solvent comprising a hydrocarbon. See the specification at page 10, lines 6 to 17.[1] Claim 1 has been further amended to describe the leave-on product as a "styling" product. See. for example, page 2, lines 1 to 15. Claims 7 and 8 have been amended to depend from claims 1 and 7, respectively.

Claim 12 is cancelled without prejudice, with Applicants reserving the right to file one or more continuing applications directed thereto.

Claim 13 has been recast as a method for styling hair which comprises contacting the hair with a hair treatment composition as described in claim 1. See the specification at page 3, lines 1-2.

New claim 14 reads on a composition according to claim 1 in which silicone-based solvents are absent. See the specification at page 10, lines 19 to 20.[2]

It is respectfully submitted that the rejections under 35 USC §112 and 35 USC §101 are overcome by this amendment.

[1] "The silicone PSA emulsion can be prepared by mixing the silicone PSA in a suitable organic solvents to give a dispersed phase. It is advantageous if this dispersed phase comprises 20 to 80% by weight of the silicone pressure sensitive adhesive....Preferred organic solvents include ethyl acetate and especially hydrocarbons. Preferred hydrocarbons include heptane, hexane and particularly preferred is isododecane)."

[2] "Other silicone-based solvents can additionally be present, but it is preferred if they are absent."

In view of the amendments set forth above and the remarks that follow, reconsideration and allowance of the subject claims, as hereby amended is respectfully requested.

Claims 1-13 have been rejected under 35 USC 102(3) as being anticipated by Clapp (US 6,887,859). This rejection is respectfully traversed.

The use of pressure sensitive adhesives in hair care compositions is known. However, as noted at page 2, lines 7 to 8 of the specification, in aqueous and hydroalcoholic compositions, pressure sensitive adhesives tend to hydrolyze. Hydrolysis of the adhesives gives rise to product stability issues which, in turn, can impair product performance. Applicants have found that incorporating the pressure sensitive adhesive into the hair treatment composition as a preformed emulsion provides styling products with improved stability. Additionally, Applicants have found that the incorporation of the pressure sensitive adhesive in a preformed emulsion in which the disperse phase comprises a hydrocarbon solvent (for example, isododecane) provides compositions having improved styling performance, in particular, improved curl retention.

The Table at page 38 of the specification provides normalized 2D projection area data (a measure of loss of curliness) obtained on hair switches treated with otherwise identical mousse compositions that varied only in the choice of their styling polymer component. Mousse B contained Luviquat FC 550 (copolymer of 3-methyl-1-vinyl-1H-imidazolium chloride and 1-vinyl-2-pyrrolidone (50:50)), Mousse C contained a pressure sensitive adhesive (PAS) emulsion identified as DC® 5-7200 17724-65-A (a PSA emulsion containing a silicone based solvent, i.e., 1 cST PDMS), and Mousse 4 contained a PSA emulsion identified as DC® 5-7300 18393-45 (a

PSA emulsion containing an isododecane solvent). On an active basis, Mousses B, C and 4 each contained 1.2% of styling polymer. The data was normalized by taking the ratio of the projection area to the average switch projection area calculated for the set of switches treated with Mousse 4. Mousse 4 (the isododecane-containing PSA emulsion) had better curl retention than Mousse B (which contained a conventional styling polymer) or Mousse C (the silicone solvent-containing PSA emulsion).

Clapp et al., directed to topical compositions that contain fluid absorbent solids such as kaolin, mica, talc, starch, microcyrstalline cellulose, fluid-absorbent polymer and other silica or non-silica–containing powders suitable for absorbing moisture or oil from body surfaces, is concerned with providing moisture-absorbing products that are therein disclosed as having improved powder adhesion and improved extended wear characteristics. The Clapp et al. compositions include an adhesive material (which may be a silicone adhesive) to improve the deposition and adhesion of the absorbent solids onto the body surface. See, for example, column 5, lines 2 to 11:

> The topical compositions of the present invention include adhesive materials in the adhesive fluid component, wherein the adhesive material is a silicone resin copolymer derived from the condensation or other functionally similar reaction or combination of an organosiloxane resin with a diorganopolysiloxane fluid. These silicone resin copolymers are known for use as adhesives in various consumers' products and applications, and are now formulated into the compositions of the present invention for the purpose of improving the deposition or adherence of fluid-adsorbent solids onto the skin.

The adhesive materials identified in the patent Examples include Bio PSA 4500 (identified as trimethylated silica treated with dimethyl siloxane, 40% in

isododecane). The Bio PSA 4500-containing examples contain all contain between about 16-20% of absorbent powder (as a combination of silica, talc, precipitated silica, and/or tapioca starch).

There is nothing in Clapp et al. that discloses or suggests hair styling products; the products disclosed therein are powder-depositing compositions that the patent discloses are formulated to provide better powder adhesion and extended wear. Owing to the high level of absorbent solids (≈16-20 wt.%) present in its PSA-containing Examples (formulated as lotions), the exemplified compositions of Clapp et al. would not be suitable for use as hair styling products. In fact, at column 14, lines 18 to 20, Clapp et al. expressly states that its compositions are preferably not applied to the head or neck. Moreover, there is nothing in Clapp et al. that would suggest to one skilled in the art a connection between solvent selection as regards performance of a PSA emulsion in hair styling products; more particularly, there is nothing in the patent that discloses or suggests to one skilled in the art that the curl retention of a PSA-containing emulsion in hair styling products is improved through the use of a PSA-containing emulsion whose organic solvent phase comprises a hydrocarbon solvent such as, for example isododecane. The patent's disclosure of PSA additives is for an entirely different use (i.e., powder adhesion) in entirely different compositions.

Additionally, claims 1-6 and 9-13 also stand rejected on the ground of nonstatutory obviousness type double patenting over Dhamdhere et al. (US 6,787,130) and claims 1-13 stand provisionally rejected on the ground of nonstatutory obviousness-type double patenting over claims 1-11 of co-pending application Serial No.10/550,623. In view of the amendment of claim 1 (from which all other claims directly or indirectly depend), reconsideration of these rejections is

respectfully requested. Should the double patenting rejections be maintained, Applicants reserve the right, upon the indication of allowable subject matter, to file appropriate terminal disclaimers to overcome these rejections.

In light of the above amendments and remarks, reconsideration and allowance of the subject is respectfully requested.

If a telephone conversation would be of assistance in advancing the prosecution of the present application, applicants' undersigned attorney invites the Examiner to telephone at the number provided.

Respectfully submitted,

Karen E. Klumas
Registration No. 31,070
Attorney for Applicant(s)

KEK/sa
(201) 894-2332